

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

SUPREME COURT CASE NO. SC 002491

INQUIRY CONCERNING A  
JUDGE, NO. 00-211

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ANSWER TO AMENDED NOTICE OF FORMAL CHARGES

HOWARD C. BERMAN ("Judge Berman"), by and through undersigned counsel, pursuant to Rule 9 of the Florida Judicial Qualifications Commission Rules ("FJOQR"), answers the Amended Notice of Formal Charges filed June 8, 2001, as follows:

ANSWER TO GENERAL ALLEGATIONS

1. Each allegation of paragraph 1 is denied.

RESPONSE TO ALLEGATIONS PERTAINING TO ALLEGED  
"HARASSMENT  
OF JO ANN B. KOTZEN"

2. Judge Berman is without knowledge as to the first sentence of paragraph 2 and therefore denies same. The allegations of the second sentence of paragraph 2 are admitted. The allegations in the third and fourth sentences of paragraph 2 are denied.

3. Judge Berman admits that in approximately June of 1996, Ms. Kotzen was assigned to work in his division, as alleged in paragraph 3. The remaining allegations in paragraph 3 are denied.

4. Judge Berman admits that he may have telephoned Ms. Kotzen on her direct office line on one occasion, but denies all other allegations of paragraph

4. 5. The allegations of paragraph 5 are denied.

6. The allegations of paragraph 6 are denied. To the contrary, when Judge Berman heard that Ms. Kotzen was spreading false rumors about him, he went to Ms. Kotzen's supervisor and requested that she be transferred from his division. Although there was some delay, she was transferred.

7. The allegations of paragraph 7 are denied. Ms. Kotzen has only appeared before Judge Berman on perhaps two or three occasions since Ms. Kotzen entered private practice.

RESPONSE TO ALLEGATIONS PERTAINING TO ALLEGED  
"HARASSMENT  
OF TERESE L. PARKER"

8. The allegations in the first, second and third sentences of paragraph 8 are denied. With regard to the fourth sentence in paragraph 8, Judge Berman states that although he does not recall, he may have announced "Terry Parker is here" when Ms. Parker appeared in his courtroom; no embarrassment was intended and Judge Berman denies that he made any statement in an "embarrassing manner," whatever that may mean. The remainder of the allegations of paragraph 8 are denied.

9. With regard to the allegations of paragraph 9, Judge Berman admits that he may have called Ms. Parker at work on one occasion. He denies that he asked her to meet him for a drink or if she was dating anyone. He admits that he telephoned her at her home after she gave Judge Berman her telephone number and invited him to call. He denies that he telephoned her at her home "stating the champagne was chilling, and the fire was roaring, and inviting her to come to your house." The other allegations of paragraph 9 are denied.

10. Judge Berman admits that Ms. Parker has been in his chambers on official business and that one occasion may have been in March of 1999. All other allegations of paragraph 10 are denied.

11. Judge Berman admits that during the spring of 2000, on a Saturday evening, he telephoned the residence of Ms. Parker; Prior to this telephone call, Ms. Parker had brought her daughter to Judge Berman's chambers to introduce her to Judge Berman and his Judicial Assistant. He admits that there was a conversation, a small part of which consisted of mutual flirtatious bantering. He denies the specific quotations contained in paragraph 11. He has no knowledge with regard to the allegations of the last sentence of paragraph 11 and therefore denies same. Ms. Parker did, however, subsequently advise him that her eight year old daughter had been eavesdropping on the other telephone and told him that this caused distress to her and that she was angry. Judge Berman apologized to her. Ms. Parker said "We have to be careful".

RESPONSE TO ALLEGATIONS PERTAINING TO ALLEGED  
"HARASSMENT  
OF ROXANNE M. RAMOS"

12. Judge Berman admits the allegations of the first and second sentences of paragraph 12. Judge Berman does not recall whether, in March 1997, Ms. Ramos asked him to sign a warrant, but that is certainly possible. Judge Berman denies the remaining allegations of paragraph 12. It is possible, however, that he gave her a paper listing fifty reasons why "chocolate is better than sex" because he recalls just having come into possession of such a paper.

13. With regard to the allegations of paragraph 13, Judge Berman admits that Ms. Ramos came to his chambers with a warrant for him to sign and gave him a piece of "Killer Chocdate Cake," not "Death by Chocdate candy." He denies the other allegations of paragraph 13.

14. Judge Berman admits that Ms. Ramos came by his chambers from time to time with warrants to be signed, although this is not normal procedure. One of those times may have been in the spring or early summer of 1997. He denies the remaining allegations of paragraph 14.

15. Judge Berman denies the allegations of paragraph 15.

16. Judge Berman does not recall, but may have called Ms. Ramos at work and may have given her his home telephone number. The remaining allegations of paragraph 16 are denied. Judge Berman has never "called in sick" or missed work because of illness.

17. Judge Berman does not recall, but Ms. Ramos may have brought a warrant to his chambers for signature in December 1997. He denies the remaining allegations of paragraph 17. He further affirmatively alleges that the door to his chambers is always open and that other court personnel are usually in the immediate area of his chambers.

18. Judge Berman does not recall, but it is possible that Ms. Ramos came to his chambers to get a warrant signed at the end of 1998 or the beginning of 1999. All other allegations of paragraph 18 are denied.

19. The allegations of paragraph 19 are admitted except that Judge Berman denies that he asked Ms. Ramos if she still “worked for the probation department” because he had not seen her.

20. The allegations of paragraph 19 are denied. Again, the doors to Judge Berman’s chambers are always open and court personnel are usually in the immediate vicinity.

21. The allegations of paragraph 21 are denied.

**RESPONSE TO ALLEGATIONS PERTAINING  
TO ALLEGED “HARASSMENT” OF LISA FERREIRA**

22. Judge Berman is without knowledge of the allegations of Paragraph 22 and, therefore, denies same, except that he admits that he has worked out at Gold’s Gym on Palm Beach Lakes Boulevard. Until Lisa Ferreira was named as a witness in this case and subsequently deposed, Judge Berman did not know who “Lisa Ferreira” was and did not recognize the name when he saw it on the witness list. (He knew her only in passing as “Lisa.”)

23. Judge Berman denies the allegations of Paragraph 23. Further, Judge Berman asserts that he has never described himself as “an elected official” or as being in a “powerful position”, not only not to Ms. Ferreira but not to any other person.

24. Judge Berman denies the allegations of Paragraph 24. In fact, Judge Berman does not recall ever having a conversation with Ms. Ferreira of any

substance whatsoever at Gold's Gym. Judge Berman's practice is to work out under the supervision of a personal trainer and then leave.

### AFFIRMATIVE DEFENSES

1. Judge Berman asserts that any statements or accusations by Ms. Kotzen have been made by her in retaliation for the fact that Judge Berman had her removed from his division.

2. No act by Judge Berman or statement by Judge Berman could reasonably be construed to be "conduct unbecoming a judge." Neither would any action of Judge Berman impair the confidence of the citizens of this state in the integrity of the judicial system or in him as a judge. With regard to the allegations of conduct involving Judge Berman and Ms. Parker and Ms. Ramos, neither Ms. Parker nor Ms. Ramos are believed to have ever filed any complaint or made any complaint to their supervisor or to anyone perceived by them to be Judge Berman's supervisor or superior. Upon information and belief, the Judicial Qualifications Commission allegations were initiated because someone overheard a conversation relating to Judge Berman and made a complaint to the Chief Judge who was then advised to refer the complaint to the JQC. Judge Berman was, is, and at all times material hereto an unmarried man. Ms. Parker has at all times material hereto been unmarried. At any time that any conversation between Judge Berman and Ms. Ramos took place which had any social overtones, Ms. Ramos was separated and openly contemplating divorce. Any conversations between Judge Berman and either Ms. Parker or Ms. Ramos which had "dating" or "social" overtones, were private and enjoyed the willing

participation of both Ms. Parker and Ms. Ramos. In fact, both Ms. Parker and Ms. Ramos openly expressed an interest in dating Judge Berman and participated in any and all conversations without objection.

3. Judge Berman has not ever had any employer/employee relationship with any of the four women named in the Notice of Formal Charges. None of the four have ever reported to Judge Berman nor have they been reliant on Judge Berman for employment evaluations, advancement, or recommendations. None of the circumstances involving Judge Berman and any of the four women listed in the Notice of Formal Charges constitute "sexual harassment" under either Florida or Federal law.

WHEREFORE, Judge Berman prays that this matter be set for final hearing, after which he respectfully requests that the Judicial Qualifications Commission find him not guilty of conduct unbecoming a judge or any other conduct in violation of his responsibilities of a judge.

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail this 31st day of July, 2001, to the persons on the attached Service List.

Scott N. Richardson, Esq.  
Atterbury, Goldberger and  
Richardson  
250 Australian Ave. S.  
Suite 1400  
West Palm Beach, FL 33401-5015  
Florida Bar No. 266515

Betty J. King, Esq.  
625 N. Flagler Drive  
Suite 501  
West Palm Beach, FL 33481  
Florida Bar No. 345997

JONES, FOSTER, JOHNSTON & STUBBS, P.A.  
Attorneys for Howard C. Berman  
505 South Flagler Drive  
Suite 1200  
West Palm Beach, FL 33401  
(561) 659-3000

By: \_\_\_\_\_  
Sidney A. Stubbs, Esquire  
Florida Bar No. 095596

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